

<b>Application</b>	19/067/2017
<b><u>IN THE MATTER</u></b>	of the Sale and Supply of Alcohol Act 2012
<b><u>AND</u></b>	
<b><u>IN THE MATTER</u></b>	of an application by Blackbull Liquor Te Kuiti Limited for a special licence pursuant to section 138 of the Act

HEARING at the Waitomo District Council Chamber on Thursday 3 May 2018

WAITOMO DISTRICT LICENSING COMMITTEE

Chairperson: Mrs S Grayson  
Members: Mr J Gower, Cr G Whittaker

APPEARANCES

Miss P Kaur – Counsel for Blackbull Liquor Te Kuiti Limited  
Mr K Singh – Director, Blackbull Liquor Te Kuiti Limited  
Mr B Gautam – General Manager, Blackbull Liquor Te Kuiti Limited  
Mr L Norris - Licensing Inspector  
Mrs N Zeier - Medical Officer of Health

**DECISION OF THE WAITOMO DISTRICT LICENSING COMMITTEE**

1. The off-licence 19/OFF/007/2016 in respect of the premises situated at 3/35 Carrol Street, Te Kuiti is renewed for a further period of 3 years. The licence may issue upon payment of the annual fee.
2. The present conditions of the licence continue to apply.

**REASONS**

**The Application**

1. This is an application by Blackbull Liquor Te Kuiti Limited for renewal of an off-licence in respect of the premises situated at 3/35 Carrol Street, Te Kuiti and known as Blackbull Liquor Te Kuiti. This bottle store has been operating from its present site under the current ownership since 2 December 2016.
2. The application was advertised, and no objections were received from members of the public. The Licensing Inspector, Police and the Medical Officer of Health have provided

reports and do not oppose the application. However, the Licensing Inspector raised some concerns in his report regarding whether the company has sufficient staff, systems and training in place to comply with the law and the lack of a Building Warrant of Fitness.

3. As a result of these concerns being raised, the licensing committee directed that the matter be heard at a public hearing.
4. A site visit was conducted at 9.00am prior to the hearing.

### **The Act**

5. The purpose of the Act is to put in place a new system of control over the sale and supply of alcohol (s 3). The object of the Act is to ensure that the sale and supply of alcohol is undertaken safely and responsibly, and the harm caused by excessive or inappropriate consumption of alcohol is minimised (s 4).
6. In deciding whether to renew an off-licence the licensing committee must have regard to sections 131 and 105 of the Act. Therefore this committee must consider the following questions within the framework of the purpose and object of the Act:
  - a) Is the applicant suitable?
  - b) Are the days and hours during which the applicant proposes to sell alcohol reasonable?
  - c) Is the design and layout of the premises suitable?
  - d) Does the applicant propose to engage in the sale of goods or provision of services other than those directly relating to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments and food?
  - e) Does the applicant have appropriate systems, staff and training to comply with the law?
  - f) Have the police, inspector and medical officer of health raised any relevant considerations?
  - g) Will the amenity and good order of the locality be increased by more than a minor extent by the effects of a refusal to renew the licence?
  - h) Has the applicant sold, displayed, advertised or promoted alcohol in a responsible manner?
  - i) Does the application comply with the Waitomo District Local Alcohol Policy?
7. The licensing committee is satisfied that the premises now has a current Building Warrant of Fitness and a section 100(f) certificate confirming that the use of the premises complies with the Resource Management Act 1991 and the building code.
8. There have been no concerns raised by the reporting agencies regarding any of the above criterion except (e). Therefore, the only issue of concern for the licensing committee is whether Blackbull Liquor Te Kuiti Limited has appropriate systems, staff and training to comply with the law?

**Does Blackbull Liquor Te Kuiti Limited have appropriate systems, staff and training to comply with the law?**

9. In his report, the Licensing Inspector Mr Norris, states that he inspected the premises on 10 January 2018. He noticed that the Host Responsibility Policy was located above the principal entrance in a location that was too high to be seen. In addition, the Duty Manager was not able to provide a staff training plan or staff training record. The manager's register was not up to date, because it did not include details of Mr Simranjeet Singh, a manager employed in April 2017.
10. Mr Norris reported that the application indicates that staff are trained on the use of the intoxication assessment tool and it is displayed at the point of sale for staff to refer to. However, when interviewed at the premises inspection, neither of the employed duty managers were able to correctly inform the Inspector how many indicators must be present for a person to be deemed intoxicated under the Act.
11. Mr Norris confirmed that prohibited persons signage was in place, there was an automatic till prompt giving the date of birth for an 18 year old and an incident report is maintained in detail.
12. Miss Kaur, counsel for Blackbull Liquor Te Kuiti Limited, submits that the company has sufficient staff systems and training in place to ensure compliance with the Act. The company has two certificated duty managers as well as other casual staff with manager's certificates that can be called on if necessary. In addition, the company director Mr Singh also holds a manager's certificate. The manager's register has been updated and will continue to be maintained going forward. The appointment of Mr Simranjeet Singh was correctly notified to the licensing committee and Police on 14 June 2017, however a mistake was made when the manager's register was not updated.
13. Miss Kaur submits that staff are well trained, experienced and aware of their responsibilities under the Act. Mr Gautam gave evidence that he did not answer the question about the indicators correctly to say that two or more factors (Speech, Co-ordination, Appearance and Behaviour) should be evident. This is because he misunderstood the question from the Inspector and gave his general opinion in relation to the intoxication assessment. Mr Gautam says he explained that he uses his personal experience to find out if someone is intoxicated because he cannot be limited to the four indicators.
14. Mr Gautam also gave evidence that staff had attended training on the Sale and Supply of Alcohol Act, however they had not completed any paperwork. They were in the process of completing them on the laptop.
15. Mr Kanwaljeet Singh, director of Blackbull Liquor Te Kuiti Limited, gave evidence that he owns five liquor stores and has never had any issues with any of them. Mr Singh provided evidence about the in-house training programme. On induction all new staff are issued with the manager's guide and are given a Host Responsibility refresher. Alcohol licensing matters are discussed at regular staff meetings. Every six months general refresher training takes place and covers; the intoxication assessment tool, the conditions of the licence, general responsibilities and the Host Responsibility Guide. All

staff have now completed the online Servewise training.

16. Mr Singh confirms that the Host Responsibility Policy is now displayed near the front entrance and is visible to customers and an Alcohol Management plan has been produced.
17. When deciding an application for the renewal of an off-licence, the licensing committee has a duty to undertake an evaluation task. In *Auckland Medical Officer of Health v Birthcare Auckland Ltd* [2016] NZARLA 946, the Licensing Authority explained that a licensing committee is required to have regard to the section 105 criteria as modified by s 131, and “step back and consider whether there is any evidence to suggest that granting the [renewal] will be contrary to the object of the Act contained in s 4(1), namely that the sale, supply and consumption of alcohol should be undertaken safely and responsibly and the harm caused by the excessive or inappropriate consumption of alcohol should be minimised”.
18. Standing back and viewing the whole application, the licensing committee accepts Miss Kaur’s submission that the company has sufficient staff systems and training in place to ensure compliance with the Act.
19. Mr Singh has presented credible evidence showing that the company has a comprehensive staff training programme. This shows that that Mr Singh has put in a considerable amount of time, effort and resources to reassure the licensing committee that the company takes its obligations seriously. In addition, the licensing committee notes that upon questioning Mr Singh demonstrated a good working knowledge of the Sale and Supply of Alcohol Act 2012. The licensing committee is satisfied that detailed records are now kept regarding the information covered at staff training and staff meetings. Any gaps in the process of recording staff training and updating the manager’s register have now been rectified. We are satisfied that granting the application will achieve the object of the Act, because the applicant is a responsible supplier of alcohol.
20. In conclusion, the application for the renewal of the off-licence is granted for the standard three-year period. The existing conditions of the licence are comprehensive and do not need to be changed.

Dated this 10th day of May 2018



Sara Grayson  
Commissioner  
Waitomo District Licensing Committee